

REMARKS

Administrative Overview

Claims 1–52 were reviewed on appeal. In the Decision on Appeal mailed on March 16, 2011, the Board affirmed-in-part, finding that the “subset of suppliers” recited in lines 11-12 of independent claim 1 and independent claim 27 is indefinite and that U.S. Patent No. 6,260,064 (“Shkedy”) disclosed various limitations of independent claims 1 and 27. The Board did find that “the selected suppliers” and “said selected subset of suppliers” recited in lines 13 and 15 of independent claim 1 and independent claim 27 had proper antecedent basis.

Claims 1, 6-9, 27, and 32-35 have been amended. No new matter has been added thereby.

The Claims, as Amended, are from the Office’s Publication of this Application

The undersigned does not have a copy of the application that was filed with the Office and has used the specification, claims, and drawings published by the Office in Publication No. 2003/0004850A1 in the preparation of this Response. Citations to material in the Applicants’ specification are made with respect to the numbered paragraphs of the published application.

The undersigned respectfully requests that he be advised of any differences between the application as filed and the published application for use in future correspondence with the Office.

Rejection of Claims 1 and 27 under 35 U.S.C. § 112, ¶ 2

The Board found that the “subset of suppliers” recited in lines 11-12 of independent claim 1 and independent claim 27 is indefinite, because it is unclear what “set” the “subset” is taken from.

We have amended claims 1 and 27. We submit that the foregoing amendments have addressed these rejections and respectfully request their withdrawal.

The Claims, as Amended, are Patentable over Shkedy

The Board was not persuaded that the Examiner erred in asserting that Shkedy discloses “utilizing … the objective function to select a subset of suppliers and determine an optimal award schedule for at least partial satisfaction of said requisition utilizing the selected suppliers” because the broadest reasonable construction for a “subset of suppliers” is one supplier. The

Board was of the opinion that Shkedy's disclosure of a single supplier that fully satisfies the requisition does "at least partially satisfy" the requisition, as recited in independent claims 1 and 27. The Board was also of the opinion that Shkedy taught the use of non-price criteria in a binary manner, and that such use was covered by the claims.

We have amended claims 1 and 27. We submit that the foregoing amendments have addressed these rejections and respectfully request their withdrawal.

CONCLUSION

In light of the foregoing, we respectfully submit that all of the pending claims are in condition for allowance. Accordingly, we respectfully request reconsideration, withdrawal of all grounds of rejection and objections, and allowance of all of the pending claims in due course.

If the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting the allowance of this application, the Examiner is invited to call the undersigned at the number identified below.

Respectfully submitted,

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